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10/612,125	07/02/2003	Andrew Weeks Kueny	946959-600013	3892
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RUDOLPH J. BUCHEL JR., LAW OFFICE OF P. O. BOX 702526 DALLAS, TX 75370-2526			MISLEH, JUSTIN P	
		ART UNIT	PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/612,125

Applicant(s)

KUENY, ANDREW WEEKS

Examiner

Justin P. Misleh

Art Unit

2622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a)  The period for reply expires 6 months from the mailing date of the final rejection.

b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2.  The Notice of Appeal was filed on 03 January 2007. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a)  They raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  They raise the issue of new matter (see NOTE below);
  - (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: 5 - 13, 17 - 22, and 30 - 32.

Claim(s) rejected: 1 - 4, 14 - 16, 23 - 29, and 33 - 50.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

AFFIDAVIT OR OTHER EVIDENCE

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

See Attached Correspondence.

12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13.  Other: \_\_\_\_\_.



TUAN HO  
PRIMARY EXAMINER

***Response to Arguments***

1. Applicant's arguments filed December 5, 2006 have been fully considered but they are not persuasive.
2. The Examiner notes Applicant indicates Claims 1, 4, 28, and 33 are "currently amended"; however, it appears that Claim 33 is the only claim of the group that actually has been amended. The amendment to Claim 33 appears to be strictly grammatical and does not affect the scope of the claim. For the purposes of this action, Claims 1, 4, and 28 will be treated as if they have been *previously presented* and Claim 33 will be entered.

**Claims 1 – 4, 14 – 16, 23 – 29, Issue 1.**

3. Applicant initially argues, "[the] present claims recite 'combining charge from a first dependently controlled region of the N linear pixel arrays of the imaging sensor ...' and also 'combining charge from a second dependently controlled region of the N linear pixel arrays in the N registers'" and additionally argues, "[the] claims recite that at least two pixel lines from one of the first region or second region is combined in the N registers (i.e., at least one pixel line from one region and two pixel lines from the other region)." Therefore, Applicant asserts, "West teaches expressly teaches to combine charge only in a pixel row adjacent to the split and teaches away from combining charge in the registers."
4. The Examiner respectfully disagrees with Applicant's position especially in regards to what is required by the claim language.
5. In a first instance of Claim 1 (lines 6 – 9), the claim language states, "combining charge from a first dependently controlled region of the N linear pixel arrays of the imaging sensor in

the N registers by shifting charge from the first dependently controlled region along each of the N linear pixel arrays to each of the N registers”.

6. The Examiner submits this portion of the claim language is written broadly enough such that it specifies how the charges are combined with the use of the N registers and not necessarily that the charges must be combined only as they are entered the N registers, as alleged by Applicant. For instance, the claim language explicitly recites, “combining charge … by shifting charge from the first dependently controlled region along each of the N linear pixel arrays to each of the N registers.” This recitation allows for the charges to be combined in West’s row 406 (see figure 4) by shifting the charges from a first dependently controlled region 401 (see figure 4) along the linear pixel arrays to row 406 such that the combined charges may be subsequently shifted into the registers 304 (see figure 4). Therefore, the combined charges from the first region (401) are shifted in combination into the N registers (304).

7. Similarly, with respect to the second dependently controlled region (402), the charges are shifted from region 402 (see figure 4) along the linear pixel arrays to row 406 such that the combined charges may be subsequently shifted into the registers 304 (see figure 4). Again, the combined charges from the second region (402) are shifted in combination into the N registers (304).

8. Moreover, West explicitly recites that each of the first and second dependently controlled regions (401 and 402) may have 8 rows of charges, which easily exceeds the required “at least three pixel lines” of the claim language (lines 18 and 19). In response thereto, the Examiner submits that nowhere in the claim language is it required that charges from the first region (401)

be combined with charges from the second region (402), as alleged by Applicant. Thus, the Examiner maintains West sufficiently discloses this limitation.

**Claims 1 – 4, 14 – 16, 23 – 29, Issue 2.**

9. Applicant argues, “The present claims recite first dependently controlled region of the N linear pixel arrays and a second dependently controlled region of the N linear pixel arrays. Since the pixels in the N arrays or the first and second regions are dependently controlled, the pixels of the first and second regions shift in unison in response to a shift command.” Applicant further asserts, “it is not immediately clear how the West’s special purpose device could function with two dependently controlled regions as is recited in the claims.”

10. The Examiner respectfully disagrees with Applicant’s position especially in regards to what is required by the claim language. The claim language is written broadly enough such that how exactly the first and second regions are dependently controlled is not specified. In other words, the claim language does not specify what the first and second regions are dependently controlled with respect to. Applicant alleges that the claim language somehow requires that the first and second regions be controlled such that the first region is dependently controlled with respect to the second region and vice versa. However, no such requirement is ever claimed.

11. At best, the claim language requires that the first and second regions are dependently controlled with respect to the timing of the image sensor. Of course, it is imperative that the readout of West’s image sensor (see figure 4), including the combination and readout of regions 401/402, is based on the timing of the image sensor. Thus, the Examiner maintains West sufficiently discloses this limitation.

12. The Examiner respectfully maintains West anticipates every feature recited in at least Claims 1, 25, and 28 and therefore the rejection of Claims 1, 25, and 28 is deemed proper.

**Claims 33 – 40**

13. Applicant argues, “The present claims recite a first dependently controlled region of the N linear pixel arrays, a second dependently controlled region of the N linear pixel arrays and also a dark dependently controlled region of the N linear pixel arrays of the imaging sensor … West does not teach or suggest shifting charge from two separately defined dependently controlled regions and into a dark region.” Applicant further asserts, “The claims clearly recite that the charge from two region is shifted in the dark region.”

14. The Examiner respectfully disagrees with Applicant’s position. It appears that Applicant is arguing that the claim requires that the charges from each of the two regions must be in the dark region at the same time. However, the Examiner submits such features are not claimed. At best, the claim language is written broadly enough such that first shifting charge from a single region through the dark region and then second shifting charge from another single region through the dark region is all that is required. West discloses, as even admitted by Applicant, that the charges from the first region (401) and the second region (402) must be shifted through a dark region (405a) to be combined the single row (406). Thus, the Examiner maintains West sufficiently discloses this limitation.

15. The Examiner respectfully maintains West anticipates every feature recited in at least Claim 33 and therefore the rejection of Claim 33 is deemed proper.

**Claims 41 – 50**

Art Unit: 2622

16. Applicant's arguments for these claims appear to rely upon arguments presented above for other independent claims. Specifically, Applicant states, "it is respectfully asserted that the rejection of claim 41 is improper for the same reasons as discussed above with regard to claim 33" and "the claims require that more than one pixel line can be combined in the N register, as also discussed above with regard to claims 1, 25, and 28."

17. Therefore, for the same reasons given above, the respectfully maintains West anticipates every feature recited in at least Claims 1, 25, 28, 33, and 41 and therefore the rejection of Claims 1, 25, 28, 33, and 41 is deemed proper.